

Serial No. 07/741,570

Applicants have amended the claims as suggested by the Examiner to replace the phrase "which may be" with the phrase "which is", and it is therefore most respectfully requested that this aspect of the rejection be withdrawn. In view of these amendments, claims 29-38 and 40-42 are clearly in condition for allowance, and early notification of same is believed to be in order.

Applicants most respectfully traverse the aspect of the rejection regarding claims 26-28 as being indefinite for failing to specify an illness or disease to be treated. More particularly, the Official Action urges that "Mechanisms alone do not satisfy the utility requirements of the statute."

Applicants submit that claim 26 claims "A method of treating a condition which is ameliorated by antagonism of 5-HT₃ receptors which comprises...." Claims 27 and 28 depend from claim 26. These claims are not simply claims which recite a mechanism. The claims relate to a method of treating a condition and the link between antagonism of 5-HT₃ receptors and the treatment of disease is well established. Accordingly, there is neither indefiniteness nor lack of utility in claims 26-28.

In support of the fact that the link between antagonism of 5-HT₃ receptors and the treatment of disease is well established in the art, applicants submit herewith copies of two review articles ("5-HT₃: The Enigma Variations" by Fozard, and "5-HT₃ Receptor Antagonists" by King *et al.*), which illustrate the many and varied conditions, for which treatment is associated with antagonism of 5-HT₃ receptors. In particular, the attention of the Examiner is respectfully directed to the third column on page 505 of the Fozard article and pages 879-884 of the King *et al.* article, wherein 5-HT₃ receptor antagonism is discussed in relation to the treatment of emesis, anxiety and psychiatric, cognitive and addictive disorders, to name but some indications.

Thus, claims 26-28 are believed to be in full compliance with 35 U.S.C. §112, as they would be sufficiently definite for one of ordinary skill in the art to practice the methods claimed therein. It is therefore most respectfully requested that this aspect of the rejection be withdrawn.

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At this time, applicants wish to direct the attention of the Examiner to U.S. Patent 5,183,820 which issued February 2, 1993, on commonly assigned U.S. Serial No. 07/691,814. A copy of this patent is provided herewith. This patent is not a reference as it has a 102(e) date of August 1, 1989, which is after the effective filing date under 35 U.S.C. §120 of the present application, which is September 2, 1988.

The present application is directed to compounds of the same general formula as claimed in the '820 patent. As noted, the '820 patent is not prior art against the present application, and there is a clear line of distinction between the compounds claimed in the present application and the '820 patent. That is, there is no overlap of claimed subject matter, and therefore, no double patenting.

In view of the above comments and amendments to the claims favorable reconsideration and allowance of all claims now present in the application are believed to be in order and are most respectfully requested.

Respectfully submitted,



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